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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,761	11/26/2003	John Gavin MacDonald	19800	9700
23556	7590	06/09/2005	EXAMINER	
KIMBERLY-CLARK WORLDWIDE, INC. 401 NORTH LAKE STREET NEENAH, WI 54956			CHAPMAN, GINGER T	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 06/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/723,761	MACDONALD ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Ginger T. Chapman	3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>22 March 2004</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: ____.                                    |

**DETAILED ACTION**

*Drawings*

The drawings are objected to as failing to comply with 37 CFR 1.84(l) because all drawings must be made by a process which gives them satisfactory reproduction characteristics. Every line, number, and letter must be durable, clean, black, sufficiently dense and dark, and uniformly thick and well-defined. The weight of all lines and letters must be heavy enough to permit adequate reproduction.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the odor absorbent layer must be shown or the feature canceled from the claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet"

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pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign mentioned in the description: (50) in accordance with specification page 5, line 25. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### *Claim Language Interpretation*

For purposes of the prior art rejections the claim language "layer" is defined as set forth at page 2, lines 8-10, i.e. "The layer may be a tissue, film, paper towel, nonwoven web, coform, airlaid, wet-laid, bonded card web and laminates thereof." As set forth on page 6, lines 6-9 and lines 16-22 of the specification, "substrates suitable for treatment with the sorbents of the invention include films, tissues, paper towels, woven and nonwoven fabrics, coform materials airlaid materials, wet-laid materials, bonded-carded webs and so forth.... Coform means a

process in which at least one meltblown diehead is arranged near a chute through which other materials are added to the web while it is forming. Such other materials may be pulp, superabsorbent particles, natural polymers and/or synthetic polymers.... Webs produced by the coform process are generally referred to as coform materials.” It is noted that the terminology “layer” has not been specifically defined by Applicants and thus will be given their broadest customary interpretation, i.e. the dictionary definition, in light of the specification. Therefore, in light of the specification, and the dictionary definition of “layer”, i.e. “one thickness, course or fold laid or lying over or under another”, the terminology “layer” is defined as the substrate treated with the sorbent and such other materials to form a unitary structure laid or lying over or under another.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant has incorporated “ASTM E1207-87” by reference into the body of claim 11, however only a US patent may be incorporated by reference. Additionally, a patent cannot be incorporated by reference into a claim. Further, it is noted that ASTM E1207-87 may change causing confusion about the scope of the claim therefore it is impossible to determine the metes and bounds of the claim. Additionally, the use of the relative terminology “superior” renders the

claim indefinite as it is unclear as to what parameters are superior, i.e., the odor reduction may be superior due to absorption or due to chemical balancing.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Karapasha et al (US 5,306,487).

**Claim 1:** Karapasha et al disclose an odor control layer (col. 5, lines 18-19) for personal care products (col. 4, lines 11-12) comprising a dried, aqueously deposited formulation (col. 18, line 8) of odor sorbent (col. 5, line 21) and binder (col. 12, line 56) (col. 18, lines 15-17 and lines 28-29) wherein said layer is placed in a personal care product selected from the group consisting of diapers, training pants, absorbent underpants, adult incontinence products, and feminine hygiene products (col. 4, lines 11-12).

**Claim 2:** Karapasha et al disclose the layer wherein said sorbent is selected from the group consisting of silicas, aluminas, zeolites, sodium carbonates, sodium bicarbonates, sodium phosphates, zinc and copper sulfates, activated carbon and mixtures thereof (col. 3, lines 48-52).

**Claims 3, 4 and 5:** Karapasha et al disclose the layer wherein said sorbent is activated carbon (col. 3, line 51) and is present in an amount of between about 2 and 80 weight percent on a dry basis (col. 4, lines 3-6).

**Claim 6:** Karapasha et al disclose the layer which is selected from the group consisting of nonwoven webs, coform, airlaid webs and laminates thereof (col. 12, lines 27-30).

**Claim 7:** Karapasha et al disclose a personal care product comprising a liquid impervious baffle (col. 17, lines 42-43), a liquid pervious body side liner (col. 13, lines 22-24), and a substrate (col. 12, lines 27-29) having thereon a dried, aqueously applied layer ((col. 18, line 8 and lines 28-29) of activated carbon and binder (col. 4, line 5 and line 9), wherein said personal care product is selected from the group consisting of feminine hygiene products and adult incontinence products (col. 4, lines 11-12).

**Claim 8-10:** Karapasha et al disclose the personal care product wherein said carbon is present in an amount between about 2 and 80 weight percent on a dry basis (col. 4, lines 3-6).

**Claim 11:** Karapasha et al disclose a personal care product comprising a durable activated carbon treatment (see claims 3-5) wherein said product has odor reduction according to ASTM E1207-87 that is superior to a similar product lacking said activated carbon treatment (col. 20, lines 36-49).

Claim 12 rejected under 35 U.S.C. 102(e) as being anticipated by Thomas (US 2005/0098466).

**Claim 12:** As seen in Figure 1, Thomas discloses a pouch for disposal of a personal care product comprising an odor sorbing treatment (page 1 [0007]).

**Claim 13:** Thomas discloses the pouch wherein said personal care product is selected from the group consisting of diapers, feminine hygiene products and incontinence products (page 1 [0008]).

Claims 14 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Weber et al (US 5,161,686).

**Claim 14:** Weber et al disclose an odor reduction insert (col. 16, lines 6-12) for air barrier packaging comprising a substrate having a treatment of activated carbon (col. 6, line 3) and binder (col. 4, line 49).

**Claim 16:** Weber et al disclose a method of controlling odor in a personal care product (col. 15, lines 33-37) comprising the steps of dipping a substrate into a formulation of activated carbon, binder and water, squeezing said substrate, drying said substrate, and placing said substrate into a personal care product (col. 12, lines 25-34).

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Weber et al ('686).

**Claim 15:** Weber teaches the odor reduction insert substantially as claimed in claim 14.

Weber does not expressly disclose placing the insert into a package of toilet paper. Weber teaches the placing the insert in packages containing medical materials such as sterilized surgical gowns (col. 16, lines 6-12) for the purpose of absorbing odorous substances from the medical materials. In view of the teachings of Weber, to place the odor absorbing inserts into toilet paper packages would have been obvious to one of ordinary skill in the art at the time the invention was made since Weber states at column 15, lines 51-53 that placing the insert into packages prevents offensive odors emanating from the package upon opening the sealed package.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Morman et al (US 5,883,028) discloses an odor absorbing layer used in personal care disposable products having 20-60% by weight of sorbents (col. 12, lines 28-36). Ram et al (US 5,846,696) disclose the use of zeolite and polymer binder inserts for absorbing noxious odor in packages (col. 2, line 36). Although these references are pertinent prior art, neither was used to reject any claims in the first office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginger T. Chapman whose telephone number is (571) 272-4934. The examiner can normally be reached on Monday through Friday 8:30 a.m. to 5:00 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Schwartz can be reached on (571) 272-4390. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ginger Chapman  
Examiner, Art Unit 3761  
6/1/05

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Larry I. Schwartz  
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